

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMES RICHARD DARCELL
DAVIS III, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
August 29, 2006

Petitioner-Appellee,

v

JAMES DAVIS II,

Respondent-Appellant.

No. 266849
Wayne Circuit Court
Family Division
LC No. 88-271222-NA

Before: Whitbeck, C.J., and Hoekstra and Wilder, JJ.

MEMORANDUM.

Respondent James Davis II appeals as of right from the order terminating his parental rights to the minor child.¹ We affirm. We decide this appeal without oral argument.²

The trial court did not clearly err in finding that the grounds for termination were established by clear and convincing evidence.³ Despite being offered services for nearly four years, Davis lacked the ability to parent properly and meet the needs of his child, who suffered from oppositional defiant disorder. Furthermore, Davis lacked suitable housing and sufficient income to care properly for a child. Davis continued to have substance abuse issues and appeared intoxicated during the last home visit. A strong odor of alcohol emanated from the home, there was no food, the refrigerator was broken, a window was broken, and the rent (not including utilities) took all but \$50 of Davis' income. Based upon this evidence, the trial court

¹ MCL 712A.19b(3)(c)(i) (authorizing termination when adjudicating conditions continue to exist); MCL 712A.19b(3)(g) (authorizing termination for failure to provide proper care or custody); MCL 712A.19b(3)(j) (authorizing termination when there is a reasonable likelihood of harm should child return to parent's home).

² MCR 7.214(E).

³ MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

did not err when it concluded that the conditions that led to adjudication continued to exist, that Davis failed to provide proper care and custody, and that the child would be harmed if returned to Davis' care.

Further, the trial court did not err when it found that the conditions would not be rectified within a reasonable time considering the child's age. Davis was offered services for four years, and his parenting ability did not improve. A treating therapist testified that Davis would require years of individual counseling and intensive assistance through the child's high school years in order to care for his son. The minor child was eight-years-old at the time of the termination hearing. Considering the circumstances, the conditions were not going to improve within a reasonable time.⁴

Finally, the evidence did not show that termination of Davis' parental rights was clearly not in the child's best interests.⁵ Any bond between Davis and the child was tenuous at best. The child's behavior was worse after visits, improved during periods when visits were suspended, and the child expressed a preference to stay in his foster home. Thus, the trial court did not err in terminating Davis' parental rights to his child.

Affirmed.

/s/ William C. Whitbeck

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder

⁴ See *In re Dahms*, 187 Mich App 644, 647-648; 468 NW2d 315 (1991).

⁵ MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).